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Defendant.

ORDER

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1 **IT IS THEREFORE ORDERED** that Magistrate Judge Foley's Findings
2 and Recommendations (Doc. #5) are Affirmed and Plaintiff John Miller's Complaint
3 (Doc. #3) is **DISMISSED** with prejudice.

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5 DATED: January 28, 2011.

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9 PHILIP M. PRO
10 United States District Judge
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